

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA,)
)
vs.) 3:04-cv-54-RLY-WGH
DENEISE QUINTANILLA,) 3:00-CR-00025-002
)
Defendant.)

E N T R Y

I.

Defendant Quintanilla has filed a timely notice of appeal from the denial of her motion for relief pursuant to 28 U.S.C. § 2255. Her notice of appeal is construed as her request for a certificate of appealability.

"A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). "A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 123 S. Ct. 1029, 1034 (2003).

There are no circumstances discernible from the pleadings or the record which satisfy these grounds. For the reasons which accompanied the dismissal of those claims in the Entry of March 9, 2006, therefore, the defendant's application for the issuance of a certificate of appealability is **denied**.

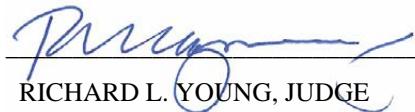
II.

The defendant seeks leave to proceed on appeal without prepayment of the appellate fees of \$255.00. An appeal may not be taken *in forma pauperis* if the trial court certifies that the appeal is not taken in good faith. 28 U.S.C. § 1915; see *Coppedge v. United States*, 369 U.S. 438, 82 S. Ct. 917 (1962). "Good faith" within the meaning of § 1915 must be judged by an objective, not a subjective, standard. See *id*. There is no objectively reasonable argument which the defendant could present to argue that the disposition of this action was erroneous. Indeed, her request to proceed on appeal *in forma pauperis* does not even make reference to the rationale for the disposition in this action, much less identify an arguable basis for believing that disposition to have been incorrect. In addition, her request for the issuance of a certificate of appealability has been denied. In pursuing an appeal, therefore, the defendant "is acting in bad faith . . . [because] to sue in bad faith means merely to sue on the basis of a frivolous claim, which is to say a claim

that no reasonable person could suppose to have any merit." *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000). Accordingly, her appeal is not taken in good faith, and for this reason her request for leave to proceed on appeal *in forma pauperis* is **denied**.

IT IS SO ORDERED.

Date: 03/31/2006



RICHARD L. YOUNG, JUDGE
United States District Court
Southern District of Indiana

Distribution:

Deneise Quintanilla
Reg. No. 56026-709
Federal Medical Center, Carswell
P.O. Box 27137
Fort Worth, TX 76127

Gerald A. Coraz
Office of the United States Attorney
10 West Market Street Suite 2100
Indianapolis, IN 46204-3048